

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, et al.,

Plaintiffs,

v.

DALE FOLWELL, et al.,

Defendants.

No. 1:19-cv-00272-LCB-LPA

**PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT
ON THEIR STATUTORY CLAIMS**

Pursuant to Federal Rule of Civil Procedure 56(a) and Local Rule 56.1, Plaintiffs Maxwell Kadel; Jason Fleck; Connor Thonen-Fleck; Julia McKeown; Michael D. Bunting, Jr.; C.B., by his next friends and parents, Michael D. Bunting, Jr. and Shelley K. Bunting; Sam Silvaine; and Dana Caraway (collectively, "Plaintiffs"), respectfully move the Court for partial summary judgment on their statutory claims, seeking declaratory and permanent injunctive relief on their claims under Section 1557 of the Affordable Care Act ("ACA"), and Plaintiff Dana Caraway's claims under Title VII of the Civil Rights Act of 1964 ("Title VII"). Plaintiffs reserve issues of damages for trial.

Plaintiffs seek partial summary judgment as to liability on their claims that Defendants' enforcement of categorical exclusions of gender-confirming care for transgender people in the North Carolina State Health Plan for Teachers and State

Employees constitutes unlawful discrimination based on sex and transgender status in violation of the ACA and Title VII. Plaintiffs respectfully request that this Court issue a declaratory judgement finding that Defendants' enforcement of the categorical exclusions violates Plaintiffs' rights under the ACA and Title VII, and permanently enjoin Defendants, their agents, employees, successors, and all others acting in concert with them, from enforcing the categorical exclusions of coverage for gender-confirming health care.

Dated: November 30, 2021

Respectfully submitted,

/s/ Amy E. Richardson

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* Appearing by special appearance pursuant to L.R. 83.1(d).

CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to all registered users.

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